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FISCAL IMPACT STATEMENT

LS 6329

BILL NUMBER: SB 103

NOTE PREPARED: Mar 26, 2007

BILL AMENDED: Mar 26, 2007

SUBJECT: Serial Meetings and Public Access Issues.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. Stilwill

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that, absent express statutory authorization, a member of the governing body of a public agency who is not physically present at a meeting but communicates with other members of the governing body during the meeting by an electronic means of communication may not participate in a final action taken at the meeting or be considered to be present at the meeting. The bill allows the board of trustees (and a committee of the board) of a state educational institution, the Ivy Tech Board of Trustees (and a committee of the board), the Board of Trustees of Vincennes University (and a committee of the board), the governing body of a joint agency of a municipal utility program, and a board, committee, or commission administered by the Indiana Professional Licensing Agency to conduct meetings by electronic means.

The bill provides, with certain exceptions, that members of the governing body who participate in a series of gatherings either in person or by electronic means (excluding electronic mail) violate the Open Door Law if: (1) one of the gatherings is attended by at least three members but less than a quorum of the members of the governing body and the other gatherings include at least two members of the governing body (for the city-county council of a consolidated city, one of the gatherings must be attended by at least five members and the other gatherings must include at least three members); (2) the total sum of different members attending all gatherings at least equals a quorum of the governing body; (3) all the gatherings concern the same subject matter and are held within a period of not more than seven days; and (4) the gatherings are held for the purpose of taking official action on public business. The bill excludes certain gatherings from the definition of "meeting" under the Open Door Law.

The bill provides that negotiations (in addition to "interviews" as provided in the current law) may be held in executive session between industrial or commercial prospects and the following: (1) the Indiana Economic

Development Corporation, (2) the Indiana Finance Authority, (3) an economic development commission, (4) a local economic development organization, (5) a governing body of a political subdivision. The bill also exempts, at the discretion of the public agency, records from public access relating to negotiations between industrial, research, or commercial prospects and a local economic development organization or a governing body of a political subdivision. It requires the terms of a final offer of public financial resources communicated by a governing body of a political subdivision to be available for inspection and copying after negotiations have terminated. It also exempts from the Open Door Law and the Access to Public Records Law an entity that: (1) receives public funds through an agreement with the state or municipality to provide services, goods, or other benefits in exchange for fees; and (2) is not required by statute, rule, or regulation to submit to an audit by the State Board of Accounts.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Definition of Meeting:* The bill modifies the definition of a meeting which pertains to public record and public meeting statutory requirements. It excludes: (1) a gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources; (2) orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action; (3) a gathering for the sole purpose of administering an oath of office to an individual; and (4) any on-site inspection of any facilities of applicants for incentives or assistance from a governing body; to the definition. To the extent that these meetings are currently considered public meetings, administrative duties would be decreased for the entities either holding or staffing the meetings. Current law requires meeting notices be posted and certain memoranda information be kept for public meetings. As proposed, staff for meetings listed under (1), (2), (3), and (4) would no longer be responsible for completing the aforementioned tasks. Any decrease in administrative duties is likely minimal.

Explanation of State Revenues: (Revised) The bill allows an action to be filed by any person in any court of competent jurisdiction to declare void any policy, decision, or final action that is based in whole or in part upon official action taken at any series of gatherings in violation if members of the governing body (or city-council of a consolidated city or county having a consolidated city) and the series of gatherings meet certain criteria.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: See also *Explanation of State Expenditures*.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

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